

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 12788 of 2007(V)

PETITIONER:

K.A.PAUL, MANAGER,
MONT FORT VALLEY SCHOOL(MONTFORT ENG. MEDIUM
SCHOOL), MURIKKUMTHOTTY, NEAR POOPARA, IDUKKI.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS:

1. DY. DIRECTOR OF EDUCATION,
IDUKKI AT THODUPUZHA.
2. ASSISTANT EDUCATIONAL OFFICER,
NEDUNGANDAM.
3. SANTHAMPARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
SANTHANPARA P.O., IDUKKI.

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

A.K. BASHEER, J.

W.P.(C). NO. 12788 OF 2007

Dated this the 10th day of August, 2007

J U D G M E N T

Petitioner is stated to be the Manager of Mont Fort Valley School at Poopara, Murikkumthotty in Idukki District.

2. According to the petitioner, the institution is being run by the Institute of brothers of Saint Gabriel. It has got another school affiliated to the CBSE at Chinnakannal. It is contended by the petitioner that in this particular institution, students are admitted in LKG, UKG and from Standard I to IV. The institution was started in the year 2005 and it has been registered under the Societies Registration Act.

3. Petitioner impugns Ext.P4 order dated March 26, 2007 issued by respondent No.2 by which he has been directed to stop functioning of the school immediately and to close down the same within a fortnight from the date of receipt of the said communication. In Ext.P4 respondent No.2 has taken the view that petitioner is not entitled to conduct an unrecognised English medium school.

4. In the counter affidavit filed by respondent No.1, it is contended that the conduct of the school is clearly against the policy decision of the Government as reflected in Ext.R1(a). Reference has also been made to a nearby Panchayat Lower Primary School. The case of respondent No.1 appears to be that the functioning of petitioner's institution would have an adverse impact on the school that is being run by Santhanppara Grama Panchayat, though admittedly the medium of instruction in that school is Malayalam and Tamil.

5. Anyhow, I do not propose to elaborately deal with the other contentions raised by respondent No.1 in the counter affidavit since in the peculiar facts and circumstances I am satisfied that it may not be just or proper to interdict the petitioner from running the school, atleast during this academic year, even assuming that the Government has now imposed certain restrictions on the conduct of schools from Standard I to IV. As rightly contended by the petitioner, there is no prohibition in the Kerala Education Act and the Rules against imparting education in those classes.

6. It will be open to the Government to frame its own policy. But still, such a drastic step as indicated in Ext.P4 order could have

been taken, (especially in the absence of statutory prohibition) after putting the petitioner to notice and after affording him sufficient opportunity to be heard. That not having been done in this case, I am of the view that Ext.P4 is liable to be quashed. I do so. I hasten to add that it will be open to the Government or the Department concerned, to issue notice to the petitioner, if so advised, before the start of the next academic year, if it is of the view that the school cannot be run in view of any order of the Government. If the Government or the Department proposes to do so, petitioner shall be issued notice and afforded sufficient opportunity to be heard before any decision is taken in the matter.

The writ petition is closed.

A.K. BASHEER, JUDGE

vps

WPC NO.12788/07

Page numbers

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007